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Patent
Attorney's Docket No. 13045-2US-1 PMMG/al

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Robert Sullivan et al.		
Serial No.:	09/719,053	Group Art Unit:	1644
Filed:	December 7, 2000	Examiner:	Phunong N. Huynh
For:	ACROSOMAL SPERM PROTEIN AND USES THEREOF		

RESPONSE TO RESTRICTION REQUIREMENT

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, DC 20231

Sir:

In complete response to the Requirement for Restriction mailed on March 25, 2002, Applicants provisionally elect, albeit with traverse, to prosecute the claims of Group II, namely Claim 3. Applicants submit concurrently herewith a Petition for Extension of Time to and including June 25, 2002, accompanied by the required fee.

Reconsideration of the Restriction Requirement is respectfully requested.

The Claims of Group I are drawn to a method of immuno-contraception of male or female subject. The method is defined as to use an immuno-contraceptive vaccine for a male or a female subject, which comprises an antigenic fragment of a P34 protein in association with a suitable pharmaceutically acceptable carrier, this said vaccine elicits an immuno-contraception response by the male or female subject after its administration (invention Group II, claim 3).

Therefore, it is respectfully submitted that these two groups (Group I and II) are closely connected together and that the search and examination of Claims 1 to 3 of the application can be made without serious burden on the examiner.

Under the statute, an application may properly be required to be restricted to one or two or more claimed inventions only if they are able to support separate patents and they are either independent (MPEP § 806.04 - § 806.04(j)) or distinct (MPEP §806.05 - §806.05(i)).

According to the MPEP, there are two criteria for proper requirement for restriction between patentably distinct inventions:

1. The inventions must be independent (MPEP § 802.01, § 806.04, § 808.01) or distinct as claimed (MPEP w 806.05 - w 806.05(i)); and
2. There must be a serious burden on the Examiner if restriction is not required (see MPEP w 803.02 - § 806.04(a) – (j), § 808.01(a) and § 808.02)

It is believed that the inventions of claims (**1-3**) are **NOT** independent or distinct and would not cause a serious burden on the Examiner. The invention described in these claims is related to a **single** invention as they might be considered obvious over each other within the meaning of 35 U.S.C. 103. Thus, the restriction should not be required in view of **In re Lee** (199 USPQ 108 (Deputy Asst. Com'r. for Pats 1978). Therefore, the requirements of MPEP § 803 are not met.

It is believed that the inventions as defined in Claims 1, 2 and 3 are not independent in matter and would not cause a serious burden on the examiner.

Withdrawal of the restriction requirement and examination on Claims 1, 2 and 3 on the merits are therefore respectfully requested.

In the event that there are any questions concerning this response, or the application in general, the Examiner is respectfully urged to telephone the undersigned so that prosecution of the application may be expedited.

Respectfully submitted,

Respectfully submitted,

By: _____
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CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this paper is being facsimile transmitted to the Patent and Trademark Office on the date shown below.

Paul Marcoux
Name of person signing certification

_____ May 29, 2002
Signature Date

RESTRICTION ELECTION FACSIMILE TRANSMISSION

DATE: May 29, 2002

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COMMENTS: _____

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